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10/813,720	03/31/2004	Shashishekara Sitharamarao Talya	136466-1/YOD GERD:0092	7407
41838	7590	09/13/2007	EXAMINER	
GENERAL ELECTRIC COMPANY (PCPI) C/O FLETCHER YODER P. O. BOX 692289 HOUSTON, TX 77269-2289			VERDIER, CHRISTOPHER M	
		ART UNIT	PAPER NUMBER	
		3745		
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Please find below and/or attached an Office communication concerning this application or proceeding.

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Group 3700

**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 10/813,720

Filing Date: March 31, 2004

Appellant(s): TALYA ET AL.

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Patrick S. Yoder  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed July 23, 2007 appealing from the Office action mailed November 2, 2006.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

1,776,392	MOODY	9-1930
1,308,619	TROYER (European Patent)	5-2003

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

Claims 19-24 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Moody 1,776,392. This rejection is set forth in the final rejection mailed November 2, 2006.

Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Moody 1,776,392 in view of European Patent 1,308,619. This rejection is set forth in the final rejection mailed November 2, 2006.

**(10) Response to Argument**

Appellant has argued concerning the rejection of claims 19-24 and 26 under 35 U.S.C. 102(b) as being anticipated by Moody 1,776,392 that figure 2 of Moody shows nozzles

33, all of which are illustrated identically, and referred to identically in the text of Moody. This argument is agreed with.

Appellant has further argued that the independent claims 19, 21, and 23 recite different types of injector assemblies, which are needle valve injector assemblies and high efficiency injector assemblies, and that since different terms are used in the claims, it is not reasonable for the examiner to ascribe the same meaning to the injector assemblies. Appellant has also pointed to the first paragraph of MPEP 2111, stating that the pending claims must be given their broadest reasonable interpretation consistent with the specification, and has also pointed to the second paragraph of MPEP 2111, stating that the specification of the instant application discloses that the terms have different meanings and that the specification must be used for interpretation of the claims. Appellant has argued that the terms used in the claims do not mean the same injector assembly, but that the assemblies are different. Appellant has further argued that since the terms “needle valve injector assembly” and “high efficiency injector assembly” in the claims mean different structures, the examiner must establish that Moody discloses the usage of different injector assemblies interspersed as recited in the claims. Appellant has also argued that Moody uses the same reference numerals, the same images and the same words for all of the injectors, and there is no reasonable basis then for interpreting Moody as teaching different injector assemblies.

These above arguments are not agreed with. Independent claims 19, 21, and 23 do not recite any structural difference between the needle valve injector assemblies and the high

efficiency injector assemblies. In Moody, two needle valves 63 are each respectively located in a respective needle valve injector assembly 33, and two other valves 63 are provided which may be considered to each be respectively located in a respective high efficiency injector assembly 33. The term “high efficiency injector assembly” is a relative term, and the two other valves 63 may each be considered to be located in a “high efficiency injector assembly” 33, since the needle valve in the injector assembly would be a high efficiency injector assembly compared to an injection that occurs drop-by-drop, for example, which would be a low efficiency injector assembly.

As set forth in MPEP 2111, the first and second paragraphs, the Federal Circuit’s en banc decision in *Phillips v. AWH Corp.*, 415 F.3d 1303, 75 USPQ2d 1321 (Fed. Cir. 2005) expressly recognized that the USPTO employs the “broadest reasonable interpretation” standard: The Patent and Trademark Office (“PTO”) determines the scope of claims in patent applications not solely on the basis of the claim language, but upon giving claims their broadest reasonable construction “in light of the specification as it would be interpreted by one of ordinary skill in the art.” *In re Am. Acad. of Sci. Tech. Ctr.*, 367 F.3d 1359, 1364[, 70 USPQ2d 1827] (Fed. Cir. 2004). One of ordinary skill in the art would interpret injector assemblies 33 of Moody as being high efficiency injector assemblies. As set forth in MPEP 2111.01, it is improper to import into a claim limitations from the specification that are not part of the claim. *In re Zletz*, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989). An applicant may be his or her own lexicographer and may rebut the presumption that claim terms are to be given their ordinary and customary meaning by clearly setting forth a definition of the term that is different from its

ordinary and customary meaning(s). *In re Paulsen*, 30 F.3d 1475, 1480, 31 USPQ2d 1671, 1674 (Fed. Cir. 1994) (inventor may define specific terms used to describe invention, but must do so “with reasonable clarity, deliberateness, and precision” and, if done, must “set out his uncommon definition in some manner within the patent disclosure’ so as to give one of ordinary skill in the art notice of the change” in meaning). At paragraph [0030] of Appellant’s specification, which discusses the high efficiency injector assembly 38, it is stated in lines 8-12 that “Similarly, other valve configurations may be employed, such as gate valves, and so forth. In general, however, the injector assembly 38 will provide an efficiency advantage over the needle valve injector assembly, such as by virtue of its open or relatively unimpeded flow path.” This definition set forth in the specification is merely exemplary and does not set out the special definition with reasonable clarity, deliberateness, and precision.

Appellant has argued concerning the rejection of claim 25 under 35 U.S.C. 103(a) as being unpatentable over Moody 1,776,392 in view of European Patent 1,308,619 that claim 25 is allowable for the reasons set forth above, since claim 25 depends from independent claim 23. The examiner disagrees for the reasons set forth above.

#### **(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner’s answer.

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For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

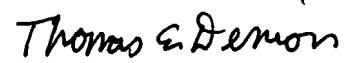


Christopher Verdier  
Primary Examiner  
Art Unit 3745

Conferees:



Edward K. Look

  
Thomas E. Denion

Thomas E. Denion